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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:

USA Commercial Mortgage Company,

Debtor.

Case No. BK-S-06-10725-LBR

Chapter 11

**DECLARATION OF GEOFFREY L.
BERMAN IN SUPPORT OF
OMNIBUS OBJECTION OF USACM
TRUST TO PROOFS OF CLAIM
BASED UPON INVESTMENT IN
THE CORNMAN TOLTEC LOAN**

Date of Hearing: September, 30 2011

Time of Hearing: 9:30 a.m.

Estimated Time for hearing: 10 min.

I, Geoffrey L. Berman, declare under penalty of perjury:

1. I am an adult person competent to testify in court.

2. I make this declaration based upon my personal knowledge, and upon the records USA Commercial Mortgage Company.

3. I am the Trustee of the USACM Liquidating Trust ("USACM Trust"), which is an entity created by the Debtors' Third Amended Joint Chapter 11 Plan of Reorganization ("Plan"), in the jointly-administered bankruptcy cases, In re USA Commercial Mortgage Company, BK-S-06-10725-LBR, pending in the United States Bankruptcy Court for the District of Nevada.

4. USACM circulated an Offer Sheet to prospective Direct Lenders soliciting funding for an acquisition and development loan to borrowers identified as “Cornman Toltec 160, LLC.” The Offer Sheet stated that the Borrower was a joint venture between USA Investment Partners and an entity named “Unlimited Holdings.” A copy of the Offer Sheet is attached hereto as **Exhibit B** and incorporated by this reference. The total loan amount proposed was \$6,550,000. *Id.* The Offer Sheet described the investment as a “First Trust Deed Investment” and noted that the investment would be secured by a first deed of trust on 160 acres of residential land in Casa Grande, Arizona, located at the North East Corner of Cornman and Toltec Butter Roads. The Offer Sheet also provided a loan-to-value of “approximately 51% of estimated per acre value on completion of mapping process.”¹

5. On June 24, 2005, Borrower made and delivered to various lenders, including the Direct Lenders identified in **Exhibit A**, a “Promissory Note Secured by Deed of Trust” (the “Note”) and a Loan Agreement.

6. The Note and Loan Agreement provided for a loan of up to \$6,550,000, with an initial advance of \$5,400,000. *Id.* The loan amount was intended for the Borrower to acquire the real property and pay for certain pre-development costs and expenses. The Note was secured by a “Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing” (the “Deed of Trust”) from Borrower in favor of the Direct Lenders, which was recorded in the official records of Pinal County, Arizona on June 30, 2005 at Instrument Number 2005-079688, as were subsequent amendments to the Deed of Trust to secure advances on the loan up to \$6,375,000.

7. The Note was also supported by an Unconditional Guaranty signed by Unlimited Holdings, Tom Hantges, and Joseph Milanowski on June 24, 2005.

¹ USACM received an appraisal on September 16, 2005 from Lyons Valuation Group, LLC that appraised the market value of the property, free and clear of all encumbrances, at \$6,500,000. The estimated value of the property, based on an estimate of 550 single family residential units, was \$11,500,000

